OLC 75-2088
27 August 1975

NOTE TO: Mr. Warner, General Counsel

FROM   : Office of Legislative Counsel

This office has been plagued by a recurring question: To
what extent, and under what circumstances, does the Administrative
Procedure Act of 1946, as amended, (5 U.S.C. §§ 551-559), apply to
this Agency. Obviously, the Freedom of Information Act and the
Privacy Act sections do apply, but the coverage of the remaining
sections is more ambiguous. We would like to obtain from the
Department of Justice, an opinion on this question.

In this Congress, as in past Congresses, we have been faced
with numerous bills amending the Administrative Procedure Act in
various respects. Each bill triggers extensive and time-consuming
research into the Act by both OLC and OGC. To date, no firm con-
clusions have been reached. Faced, as we are, with an unusually
high number of bills in this area, with an activist Chairman of
the Senate Judiciary Subcommittee on Administrative Procedures
(Senator Edward M. Kennedy) who seems inclined to press the appli-
cability of the APA to its very limits, and with a period of
inter-Agency review of the various statutory authorities affecting
Agency operations, this office believes it would be appropriate
to approach the Department of Justice for an opinion on this
question. We are of the view that this could best be accomplished
by asking for the Department's concurrence in an Agency opinion
which stakes out our best position, namely that only the Freedom
of Information and Privacy sections of the Act apply to CIA.
Accordingly, we recommend that OGC should solicit the opinion
from the Department of Justice although this office is prepared
to do so if you conclude that this would be appropriate.

Acting Legislative Counsel

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Distribution:
     Original - Addressee
            1 - OLC Subject
            1 - OLC Chrono

OLC:WPB:cmw (typed 26 August 1975)

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Wednesday - 20 August 1975

CIA INTERNAL USE ONLY

1. (Unclassified - WPB) LEGISLATION Bob Carlstrom, OMB, who has been working on clearing our various reports on criminal justice information bills, called to say that he had some comments from Justice Department on our report which he would be forwarding to me.

2. (Unclassified - DFM) LEGISLATION Called George Gilbert, OMB, to report that the Agency agreed with the Administration's position in the State Department's letter to the Senate Foreign Relations Committee on S. 1341, to establish a 200-mile Marine Pollution Control Zone. The letter had been reviewed by [   ] of OGCR.　　　　　　　　STAT

3. (Unclassified - DFM) CONSTITUENT Dropped off at the office of Representative Norman Mineta (D., Calif.), for Dan Murphy, a listing of people suing the Agency for alleged illegal domestic activities. OGC provided the list.　　　　　　　　STAT

5. (Unclassified - DFM) ADMINISTRATIVE - DELIVERIES Dropped off at the office of Representative Lucien Nedzi (D., Mich.), for Cindy Szady, a copy of Mr. Colby's interview with Martin Agronsky, dated 19 August 1975.

6. (Unclassified - DFM) ADMINISTRATIVE - DELIVERIES Dropped off at the office of Chairman Jack Brooks (D., Texas), Subcommittee on Legislation and National Security, Committee on Government Operations, a letter from Mr. Colby concerning the Agency's hiring of special counsel for the congressional hearings.

7. (Unclassified - DFM) ADMINISTRATIVE - DELIVERIES Delivered to Bob Boyer, staff member of the House Committee on International Relations, a confidential memo prepared by [   ] on an alleged memorandum prepared in the Office of the President of the Philippines on Philippine-American Base Agreement.　　STAT
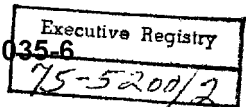
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Executive Registry

75-5200/2

OLC 75•2035

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

August 19, 1975

MEMORANDUM TO THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

Subject: Review of Initial System Notice and Agency Rules
Under the Privacy Act of 1974

Section 6 of P.L. 93-579 assigns OMB responsibility for con-
tinuing oversight of agencies' implementation of Section 3 of
the Act. To assure that the agencies' rules and the system
notices required by that Section are in general compliance
with the Act, we are planning to conduct an evaluation of
their content when published in the Federal Register. We
believe that agency participation in such a review will have
the mutual benefit of assuring a higher level of consistency
in implementing privacy requirements within the executive
branch. We also believe this review offers an opportunity
for agency staff to gain an understanding and perspective
on the Privacy Act which will aid you in carrying out your
continuing responsibilities.

To provide the staffing for this one time review, selected
agencies will be asked to provide attorneys and clerical
personnel to an interagency task force. OMB staff will
be following up with the selected agencies through the
privacy official whom you identified in response to
Director Lynn's May 6, 1975 memorandum. The task force
should operate from August until October 31th. Should you
wish to volunteer personnel for this review, please
contact Mr. Fernando Oaxaca, OMB Associate Director for
Management and Operations.

We look forward to your continued support and cooperation
in coordinating the executive branch's response to the
requirements of the Privacy Act.

Paul H. O'Neill
Acting Director

OLC 75-1927

Executive Registry

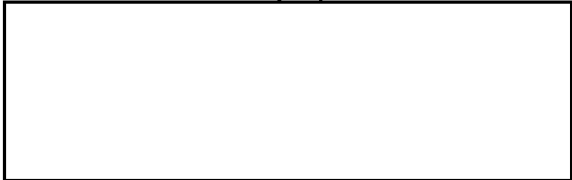75-2931

Legislation

12 August 1975

MEMORANDUM FOR: The Director

SUBJECT: Proposed Legislation Regarding CIA

        During the Martin Agronsky interview of President Ford
last week it sounded as if the President had proposed
legislation in hand with respect to the CIA. In light of
that, I suggested to Phil Buchen that it might be
helpful if we got a chance to look at any proposed
legislation prior to the implementation by the Agency
of the Rockefeller Commission Recommendations. Phil
thought it was a good idea but made it clear that they
unfortunately did not have any proposed legislation in
hand. He said that we would get copies of any proposals
for comment at an early date.

STAT

                    Special Counsel to the Director

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